

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

United States of America,

Case No. 22-cr-322 (SRN/TNL)

Plaintiff,

v.

ORDER

Matthew Thomas Onofrio,

Defendant.

This matter is before the Court on Plaintiff United States of America and Defendant Matthew Thomas Onofrio's Joint Motion for Scheduling Order and Exclusion of Time Under the Speedy Trial Act, 18 U.S.C. § 3161 *et seq.* (ECF No. 12). The parties request that the Court extend the deadlines for the parties' disclosures, motions, responses, and notice of intent to call witnesses; continue the motions hearing date; and exclude the time period until the deadline for filing motions from computation under the Speedy Trial Act. (*Id.* at 2.) Specifically, the parties ask that the Government's disclosures deadline be extended to March 6, 2023, Defendant's disclosures deadline be extended to March 20, 2023, and the motions filing deadline be extended to May 5, 2023. (*Id.*) The parties contend that "[t]his is a complex matter involving voluminous materials and multiple search warrants," and "[t]he government is identifying and preparing materials to be disclosed to the defendant in pretrial discovery, which will require significant time." (*Id.* at 1.) According to the parties, "[a]dditional time is required to permit counsel sufficient

time to analyze discovery disclosures once received, in order to prepare motions and prepare for trial.” (*Id.*)

Pursuant to 18 U.S.C. § 3161(h)(7), this Court finds that the ends of justice served by granting a continuance outweigh the best interests of the public and Defendant in a speedy trial and such continuance is necessary to provide the parties reasonable time necessary for effective preparation and to make efficient use of the parties’ resources. The Court will therefore grant an extension of the deadlines for making disclosures and filing motions, and continue the motions hearing and trial-related dates accordingly.

Based on all the files, records, and proceedings herein, **IT IS HEREBY ORDERED** that:

1. The parties’ Joint Motion for Scheduling Order and Exclusion of Time Under the Speedy Trial Act, 18 U.S.C. § 3161 *et seq.* (ECF No. 12) is **GRANTED**.

2. The government shall make all disclosures required by Federal Rule of Criminal Procedure 16(a) by **March 6, 2023**. D. Minn. LR 12.1(a)(1). In order to avoid the need for a recess of the motions hearing, the government is requested to make, by **March 6, 2023**, all disclosures which will be required by Fed. R. Crim. P. 26.2 and 12(h).

3. Pursuant to the Due Process Protections Act, the Court confirms the United States’ obligation to disclose to the defendant all exculpatory evidence- that is, evidence that favors the defendant or casts doubt on the United States’ case, as required by *Brady v. Maryland*, 373 U.S. 83 (1963) and its progeny, and orders the United States to do so. Failure to do so in a timely manner may result in consequences, including, but not limited to, exclusion of evidence, adverse jury instructions, dismissal of charges, contempt

proceedings, disciplinary action, or sanctions by the Court.

4. Defendant shall make all disclosures required by Federal Rule of Criminal Procedure 16(b) by **March 20, 2023**. D. Minn. LR 12.1(a)(2).

5. The period of time from **December 2, 2022, through May 5, 2023**, shall be excluded from Speedy Trial Act computations in this case.

6. All motions in the above-entitled case shall be filed and served consistent with Federal Rules of Criminal Procedure 12(b) and 47 on or before **May 5, 2023**.¹ D. Minn. LR 12.1(c)(1). Two courtesy copies of all motions and responses shall be delivered directly to the chambers of Magistrate Judge Tony N. Leung.²

7. **Counsel shall electronically file a letter on or before May 5, 2023, if no motions will be filed and there is no need for a hearing.**

8. All responses to motions shall be filed by **May 19, 2023**. D. Minn. LR 12.1(c)(2).

9. Any Notice of Intent to Call Witnesses³ shall be filed by **May 19, 2023**. D. Minn. LR 12.1(c)(3)(A).

10. Any Responsive Notice of Intent to Call Witnesses⁴ shall be filed by **May**

¹ “Before filing a motion under Fed. R. Crim. P. 12(b), the moving party must confer with the responding party. The parties must attempt in good faith to clarify and narrow the issues in dispute.” D. Minn. LR 12.1(b).

² U.S. Mail or hand-deliver to 300 South Fourth Street, Suite 9W, Minneapolis, MN 55415.

³ “When a party intends to call witnesses at a hearing on a motion under Fed. R. Crim P. 12(b), the party must file a notice within 35 days after the arraignment. The notice must identify the number of witnesses whom the party intends to call, the motion or motions that each witness will be addressing, and the estimated duration of each witness’s testimony.” D. Minn. LR 12.1(c)(3)(A).

⁴ “If after reviewing a notice under LR 12(c)(3), a party intends to call witnesses at the same hearing, that party must file a responsive notice within 38 days after the arraignment. The responsive party must identify the number of witnesses whom the party intends to call, the motion or motions each witness will be addressing, and the estimated duration of each witness’s testimony.” D. Minn. LR 12.1(c)(3)(B).

24, 2023. D. Minn. LR 12.1(c)(3)(B).

11. A motions hearing will be held pursuant to Federal Rules of Criminal Procedure 12(c) where:

- a. The Government makes timely disclosures and a defendant pleads particularized matters for which an evidentiary hearing is necessary; or
- b. Oral argument is requested by either party in its motion, objection or response pleadings.

12. If required and subject to further order of the Court, the motions hearing shall be heard before Magistrate Judge Tony N. Leung on **June 6, 2023**, at **1:30 p.m.**, in **Courtroom 9W**, Diana E. Murphy U.S. Courthouse, 300 South Fourth Street, **MINNEAPOLIS**, Minnesota 55415. D. Minn. LR 12.1(d).

13. An arraignment hearing will be held before Magistrate Judge Tony N. Leung on **June 6, 2023**, at **1:30 p.m.**, in **Courtroom 9W**, Diana E. Murphy U.S. Courthouse, 300 South Fourth Street, **MINNEAPOLIS**, Minnesota 55415.

14. **TRIAL:**

a. **IF NO PRETRIAL MOTIONS ARE FILED BY DEFENDANT:**
the following trial and trial-related dates are:

All voir dire questions and jury instructions and trial related motions (including motions in limine) must be submitted to District Judge Susan Richard Nelson on or before *a date to be determined*.

This case must commence trial on *a date to be determined* before District Judge Nelson in Courtroom 7B, Warren E. Burger Federal Building and U.S. Courthouse, 316 North Robert Street, **SAINT PAUL**, Minnesota.

b. **IF PRETRIAL MOTIONS ARE FILED, the trial date, and other related dates, will be rescheduled following the ruling on pretrial motions. Counsel must contact the Courtroom Deputy for District Judge Nelson to confirm the new trial date.**

Dated: December 6, 2022

s/ Tony N. Leung
TONY N. LEUNG
United States Magistrate Judge
District of Minnesota

United States v. Onofrio
Case No. 22-cr-322 (SRN/TNL)